

**TITLE 53**  
**WILLS, TRUSTS, AND ADMINISTRATION OF ESTATES**

**CHAPTER 12**  
**TRUSTS**

**ARTICLE 15**  
**NONRESIDENTS AND FOREIGN ENTITIES ACTING AS TRUSTEES**

**53-12-320. Nonresidents acting as trustees.**

(a) Any nonresident who is eligible to serve as a trustee under Code [Section 53-12-201](#) may act as a trustee in this state pursuant to the terms of this Code section.

(b) Any nonresident trustee who acts as a trustee in this state shall be deemed to have consented to service upon the Secretary of State of any summons, notice, or process in connection with any action or proceeding in the courts of this state growing out of or based upon any act or failure to act on the part of the trustee unless the trustee shall designate as the agent for such service some person who may be found and served with notice, summons, or process in this state by a designation to be filed, from time to time, in the office of the Secretary of State, giving the name of the agent and the place in this state where the agent may be found and served.

(c) If a nonresident trustee fails to designate a person who may be found and served with summons, notice, or process in this state, service of summons, notice, or process shall be made upon such trustee by serving a copy of the petition or other pleading, with process attached thereto, on the Secretary of State. The service shall be sufficient service upon such nonresident trustee, provided that notice of the service and a copy of the petition and process is forthwith sent by registered or certified mail or statutory overnight delivery by the plaintiff or the plaintiff's agent to such trustee, in the state where such trustee resides, and the return receipt is appended to the summons or other process and filed with the summons, petition, and other papers in the court where the action is pending. The Secretary of State shall charge and collect a fee as set out in Code [Section 45-13-26](#) for service of process on him or her under this Code section.

(Code 1981, 53-12-320, enacted by Ga. L. 2010, p. 579, 1/SB 131; Ga. L. 2011, p. 752, 53/HB 142.)

**53-12-321. Foreign entities acting as trustees.**

(a) Any foreign entity may act in this state as trustee, executor, administrator, guardian, or any other like or similar fiduciary capacity, whether the appointment is by law, will, deed, inter vivos trust, security deed, mortgage, deed of trust, court order, or otherwise without the necessity of complying with any law of this state relating to the qualification of foreign entities to do business in this state or the licensing of foreign entities to do business in this state, except as provided in this article, and notwithstanding any prohibition, limitation, or restriction contained in any other law of this state, provided only that the foreign entity is authorized to act in the

fiduciary capacity in the state in which it is incorporated or organized or, if the foreign entity is a national banking association, in the state in which it has its principal place of business.

(b) Any foreign entity seeking to exercise fiduciary powers in this state, upon qualifying in this state to act in any of such fiduciary capacities, shall not be required by law to give bond, if bond is relieved by the instrument, law, or court order in which such entity has been designated to act in such fiduciary capacity.

(c) Nothing in this article shall be construed to prohibit or make unlawful any activity in this state by a bank or other entity which is not incorporated or organized under the laws of this state or by a national bank which does not have its principal place of business in this state, which activity would be lawful in the absence of this article.

(Code 1981, 53-12-321, enacted by Ga. L. 2010, p. 579, 1/SB 131; Ga. L. 2011, p. 551, 14/SB 134.)

**53-12-322. Acting as fiduciary not transacting business in state; establishment of place of business prohibited.**

A foreign entity, insofar as it acts in a fiduciary capacity in this state pursuant to this article, shall not be required to obtain a certificate of authority to transact business in this state as required by Article 15 of [Chapter 2](#) of [Title 14](#); provided, however, that such foreign entity shall not establish or maintain in this state a place of business, branch office, or agency for the conduct in this state of business as a fiduciary.

(Code 1981, 53-12-322, enacted by Ga. L. 2010, p. 579, 1/SB 131.)

**53-12-323. Filing statement with Secretary of State; appointment of agent for service.**

(a) Prior to the time when any foreign entity acts pursuant to the authority of this article in any fiduciary capacity in this state, the foreign entity shall file with the Secretary of State a verified statement which shall state:

- (1) The correct name of the foreign entity;
- (2) The name of the state under the laws of which it is incorporated or organized or, if the foreign entity is a national banking association, a statement of that fact;
- (3) The address of its principal business office;
- (4) In what fiduciary capacity it desires to act in this state;
- (5) That it is authorized to act in a similar fiduciary capacity in the state in which it is incorporated or organized or, if it is a national banking association, in which it has its principal place of business; and
- (6) The name and address of a person who may be found and served with notice, summons, or process in this state and who is designated by the foreign entity as its agent for such service.

(b) The statement provided for in subsection (a) of this Code section shall be verified by an officer of the foreign entity, and there shall be filed with it such certificates of public officials and copies of documents certified by public officials as may be necessary to show that the foreign entity is authorized to act in a fiduciary capacity similar to those in which it desires to act in this state, in the state in which it is incorporated or organized, or, if it is a national banking association, in which it has its principal place of business.

(c) Any foreign entity that acts as a trustee in this state shall be deemed to have consented to service upon the Secretary of State of any summons, notice, or process in connection with any action or proceeding in the courts of this state growing out of or based upon any act or failure to act on the part of the trustee unless the trustee shall designate as the agent for such service some person who may be found and served with notice, summons, or process in this state by a designation to be filed, from time to time, in the office of the Secretary of State, giving the name of the agent and the place in this state where the agent may be found and served.

(d) If a foreign entity fails to designate a person who may be found and served with summons, notice, or process in this state, service of summons, notice, or process shall be made upon such foreign entity by serving a copy of the petition or other pleading, with process attached thereto on the Secretary of State. The service shall be sufficient service upon such foreign entity, provided that notice of the service and a copy of the petition and process is forthwith sent by registered or certified mail or statutory overnight delivery by the plaintiff or the plaintiff's agent to such foreign entity at the address that is on file with the Secretary of State, and the return receipt is appended to the summons or other process and filed with the summons, petition, and other papers in the court where the action is pending. The Secretary of State shall charge and collect a fee as set out in Code [Section 45-13-26](#) for service of process on him or her under this Code section.

(Code 1981, 53-12-323, enacted by Ga. L. 2010, p. 579, 1/SB 131; Ga. L. 2011, p. 551, 15/SB 134.)